

1                                   **BEFORE THE ARIZONA MEDICAL BOARD**

2   In the Matter of

Board Case No. 08A-15597-MDX

3   **JACK I DODGE, M.D.,**

**FINDINGS OF FACT,  
CONCLUSIONS OF LAW AND ORDER**

4   Holder of License No. 15597  
5   For the Practice of Allopathic Medicine  
6   In the State of Arizona.

(License Revocation)

7           On February 4, 2009, this matter came before the Arizona Medical Board  
8   ("Board") for oral argument and consideration of the Administrative Law Judge (ALJ)  
9   Thomas Shedden's proposed Findings of Fact and Conclusions of Law and  
10   Recommended Order. Assistant Attorney General Jennifer Boucek represented the  
11   State. Chris Munns, Assistant Attorney General with the Solicitor General's Section of  
12   the Attorney General's Office, was present and available to provide independent legal  
13   advice to the Board.

14           The Board, having considered the ALJ's decision and the entire record in this  
15   matter, hereby issues the following Findings of Fact, Conclusions of Law and Order.

16                                   **FINDINGS OF FACT**

- 17   1.    The Arizona Medical Board ("Board") is the duly constituted authority for licensing  
18   and regulating the practice of allopathic medicine in the State of Arizona.
- 19   2.    Jack I. Dodge, M.D. is the holder of License No. 15597 issued by the Board for the  
20   practice of allopathic medicine in Arizona.
- 21   3.    On August 4, 2008 the Board issued a Complaint and Notice of Hearing setting this  
22   matter for hearing at 9:00 a.m. September 29, 2008.
- 23   4.    No representative appeared for Dr. Dodge at the scheduled time and, after a 15  
24   minute grace period the Administrative Law Judge convened the hearing in his absence.  
25   At that time the Board requested a continuance because its witness had unexpectedly  
been required to take her child to the doctor.

1 5. The matter was reset for 1:30 p.m. October 30, 2008. No representative appeared  
2 for Dr. Dodge at the scheduled time and, after a 15 minute grace period the  
3 Administrative Law Judge convened the hearing in his absence.

4 6. The Board presented the testimony of Victoria Kamm and had 6 exhibits entered  
5 into evidence.

6 7. Ms. Kamm was formerly employed by the Board as an investigator and was the  
7 Board's investigator with respect to the instant matter. Ms. Kamm is now an investigator  
8 for the Arizona Board of Psychologist Examiners.

9 8. Dr. Dodge was indicted on 2 counts of conspiracy to possess and distribute  
10 Oxycontin by misrepresentation and forgery and on 95 counts of knowingly dispensing  
11 and distributing Oxycontin outside the course of professional medical practice and not for  
12 a legitimate medical purpose.

13 9. On December 16, 2005, Dr. Dodge signed a Factual Basis Statement in which he  
14 admitted to writing multiple prescriptions for Oxycontin for his co-defendants and others  
15 and that these prescriptions were outside Dr. Dodge's legitimate doctor/patient  
16 relationship.

17 10. Dr. Dodge pleaded guilty to, and was convicted of, Conspiracy in violation of 21  
18 U.S.C. §§ 841(a)(1) and 846.

19 11. On April 24, 2006 Dr. Dodge was sentenced to 60 months imprisonment.

20 12. On June 15, 2004 the Board suspended Dr. Dodge's license after Dr. Dodge  
21 relapsed in an after care program. Dr. Dodge was diagnosed as alcohol dependent,  
22 cocaine dependent, and opiate dependent. At the hearing related to the 2004  
23 suspension, Dr. Dodge testified that he would advise other aftercare patients to lie, rather  
24 than to honestly self-report any relapses.

25 13. On September 13, 2004 the Medical Board of California revoked Dr. Dodge's  
California Physician and Surgeon's Certificate.

14. On December 21, 2004 the South Dakota Board of Medical and Osteopathic  
Examiners revoked and cancelled Dr. Dodge's license to practice medicine in South  
Dakota.

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### CONCLUSIONS OF LAW

1. The Board has jurisdiction over Respondent and the subject matter in this case.
2. The Board has the burden of persuasion. A.R.S. § 41-1092.07(G)(2).
3. The burden of proof on all issues is preponderance of the evidence. A.A.C. R2-19-119(A).
4. A preponderance of the evidence is "[e]vidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not." BLACK'S LAW DICTIONARY 1182 (6<sup>th</sup> ed. 1990).
5. The preponderance of evidence shows that Dr. Dodge violated A.R.S. §§ 32-1401(27)(d) and (27)(o), which violations constitute acts of unprofessional conduct. Consequently discipline against Dr. Dodge's license is appropriate. See A.R.S. § 32-1451(M).
6. The Board argues that revocation is appropriate because Dr. Dodge's unprofessional conduct is egregious based on the number and nature of the violations and considering Dr. Dodge's prior suspension for alcohol and drug related issues. The preponderance of evidence supports the Board's position and, consequently, Dr. Dodge's license should be revoked.

### ORDER

Based on the foregoing the Board orders that on the effective date of the Order entered in this matter, Dr. Jack I Dodge's License No. 15597 is revoked. Pursuant to A.R.S. § 32-1451(M) and 41-1007, Respondent is assessed the costs of the formal hearing. These costs shall be paid within 30 days from the date the Board issues an invoice for those costs, unless that deadline is extended by the Board or its Executive Director.

### RIGHT TO PETITION FOR REHEARING OR REVIEW

Respondent is hereby notified that he has the right to petition for a rehearing or review. The petition for rehearing or review must be filed with the Board's Executive Director within thirty (30) days after service of this Order. A.R.S. § 41-1092.09(B). The petition for rehearing or review must set forth legally sufficient reasons for granting a

1 rehearing or review. A.A.C. R4-16-103. Service of this order is effective five (5) days  
2 after date of mailing. A.R.S. § 41-1092.09(C). If a petition for rehearing or review is not  
3 filed, the Board's Order becomes effective thirty-five (35) days after it is mailed to  
4 Respondent.

5 Respondent is further notified that the filing of a motion for rehearing or review is  
6 required to preserve any rights of appeal to the Superior Court.

7 DATED this 5<sup>th</sup> day of February, 2009.



THE ARIZONA MEDICAL BOARD

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By [Signature]

Lisa S. Wynn  
Executive Director

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ORIGINAL of the foregoing filed this  
5<sup>th</sup> day of February, 2009 with:

Arizona Medical Board  
9545 East Doubletree Ranch Road  
Scottsdale, Arizona 85258

COPY OF THE FOREGOING FILED  
this 5<sup>th</sup> day of February, 2009 with:

Cliff J. Vanell, Director  
Office of Administrative Hearings  
1400 W. Washington, Ste 101  
Phoenix, AZ 85007

Executed copy of the foregoing  
mailed by U.S. Mail this  
5<sup>th</sup> day of February, 2009 to:

Jack I. Dodge, M.D.  
Address of Record

1 Marki A. Stewart  
Mariscal, Weeks, McIntyre & Friedlander, P.A.  
2 2901 N. Central Avenue, Ste. 200  
Phoenix , AZ 85015

3 Jennifer Boucek  
4 Assistant Attorney General  
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6 Phoenix, AZ 85007

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Attorneys for the State of Arizona

BEFORE THE ARIZONA MEDICAL BOARD

IN THE OFFICE OF ADMINISTRATIVE HEARINGS

In the Matter of:

No. 08A-15597-MDX

JACK I. DODGE, M.D.

MOTION TO ACCEPT AND MODIFY ALJ  
DECISION

Holder of License No. 15597  
For the Practice of Allopathic  
Medicine  
In the State of Arizona

The State of Arizona, by and through undersigned counsel,  
hereby requests that the Arizona Medical Board ("Board") accept  
the Administrative Law Judge ("ALJ") Decision issued in the  
above-captioned matter, with modifications as set forth below:

I. Recommended Modifications to the ALJ Decision

a. Finding of Fact #3: Modify.

Counsel recommends that the word "Complainant" be  
changed to "Complaint", to accurately reflect the title of the  
document referenced.

b. Finding of Fact #15: Delete.

Counsel recommends that the Board delete Finding  
of Fact #15, which states that the Board's witness, Victoria  
Kamm, believes that revocation of Dr. Dodge's license is

1 appropriate. The witness's opinion regarding whether revocation  
2 is appropriate is a conclusion that should be left to the  
3 Administrative Law Judge and the Board.

4 II. Recommendation to Accept the ALJ's Recommended Order,  
5 With the Addition of Costs.

6 Counsel supports the ALJ's recommendation that Dr. Dodge's  
7 license for the practice of allopathic medicine be revoked for  
8 violations of A.R.S. § 32-1401(27)(d) ("Committing a felony,  
9 whether or not involving moral turpitude, or a misdemeanor  
10 involving moral turpitude. In either case, conviction by any  
11 court of competent jurisdiction or a plea of no contest is  
12 conclusive evidence of the commission") and A.R.S. § 32-  
13 1401(27)(e) ("Action that is taken against a doctor of medicine  
14 by another licensing or regulatory jurisdiction . . . .").

15 It is also respectfully requested that the Board assign  
16 costs to Dr. Dodge, pursuant to A.R.S. §§ 32-1451(M) and 41-  
17 1007.

18 RESPECTFULLY SUBMITTED this 19<sup>th</sup> day of November, 2008.

19 MARISCAL, WEEKS, McINTYRE  
20 & FRIEDLANDER, P.A.

21 By 

22 Marki A. Stewart  
23 2901 North Central Avenue,  
24 Suite 200  
25 Phoenix, Arizona 85012  
26 Attorneys for Medical  
Board

1 ORIGINAL and of the foregoing faxed  
this 19<sup>th</sup> day of November, 2008 to:

2 Arizona Medical Board  
3 9545 East Doubletree Ranch Road  
Scottsdale, Arizona 85258

4 COPIES of the foregoing mailed  
5 this 19<sup>th</sup> day of September, 2008 to:

6 Jack I. Dodge, M.D., #09599-029  
7 Tower 2, 8th Floor  
400 State Avenue  
Kansas City, Kansas 66101

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9 C. Robb  
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